

Adopted 8/23/05

ORDINANCE NO. 05- 713

WHEREAS, involuntary exposure to environmental tobacco smoke (also known as secondhand smoke) is a leading public health hazard throughout the United States; and

WHEREAS, the Environmental Protection Agency has classified environmental tobacco smoke a Class-A human carcinogen, causing cancer in humans and unsafe at any level; and

WHEREAS, children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, development abnormalities, and cancer; and

WHEREAS, the United States Surgeon General has concluded that involuntary smoking is a cause of disease, including lung cancer, in non-smokers; and

WHEREAS, the possession of lighted smoking materials in public places is a nuisance and is hazardous to the public health, safety, comfort, and convenience; and

WHEREAS, the simple separation of smokers and non-smokers within the same air space may reduce, but does not eliminate, the exposure of non-smokers to environmental tobacco smoke; and

WHEREAS, the City Council of the City of Huntsville, Alabama, finds that it is necessary to prohibit smoking in public places;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Huntsville, Alabama, that Article IV, Smoking in Public Places, of Chapter 14, Health and Sanitation, of the Code of Ordinances, City of Huntsville, Alabama, as adopted and approved on the 24th day of April, 2003, as amended, is hereby further amended as follows:

Section 1. Section 14-91 is hereby amended to read as follows:

Section 14-91. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Employee means any person who is employed by an employer for compensation or profit.

Employer means any person, partnership, corporation, association, or other entity, that employs one or more persons.

Place of Employment means any area under the control of an employer to which employees have access during the

course of employment, including, but not limited to work areas, employee lounges, employee restrooms, conference rooms and employee cafeterias. A private residence is not a place of employment.

Public or Public Place shall mean any area that is used by the general public, or that is a place of business or employment, or that is a public meeting area, and includes, but is not limited to: stores, offices and other commercial establishments, restaurants, public and private educational institutions, health care facilities, nursery and convalescent homes, government buildings, public transportation vehicles, parks, arenas, stadiums, and other areas as described in Section 14-95.

Smoking or Smoke shall included the carrying, holding, or possession of lighted smoking materials in any form, including but not limited to, the possession of lighted cigarettes, cigars, pipes, or any other tobacco products.

Section 2. Section 14-92 is hereby amended to read as follows:

Section 14-92. Penalty.

- (1) Any person who willfully smokes in an area where smoking is prohibited under this article; or any business proprietor or person in charge of a public place who fails or refuses to designate smoking and nonsmoking areas or facilities as required in this article; or, who being asked to do so fails or refuses to enforce the designations; or any employer who fails or refuses to adopt and implement a written smoking policy for the workplace which shall reasonably accommodate, insofar as possible as provided in this article, the preferences of smoking and nonsmoking employees shall be guilty of an offense and shall be subject to punishment by a fine of not less than \$1.00 nor more than \$500.00 for each such offense. Each day any violation of this article shall continue shall constitute a separate offense.
- (2) In addition to the fines established by this Section, the City Council shall be authorized to suspend or revoke any business license or permit issued by the City of Huntsville for repeated violations of this Ordinance involving the licensed premises.

Section 3. Section 14-94 is hereby amended to read as follows:

Section 14-94. Enforcement.

The provisions of this article are enforceable by any duly sworn police officer employed by the city, the county health officer or his duly authorized representative, or as otherwise allowed by law for prosecution of offenses.

Notice of the provisions of this Ordinance shall be given to all applicants for a business license in the City of Huntsville.

Section 4. Section 14-95 is hereby amended to read as follows:

Section 14-95. Offenses.

Except as provided in Section 14-96, smoking or the use of any lighted tobacco product is prohibited in all public places, including, but not limited to, the following:

- (1) Any commercial establishment, including, but not limited to, retail stores, restaurants, banks, office buildings and offices;
- (2) Any vehicle of public transportation, including but not limited to, local trains, buses, taxicabs and limousines;
- (3) Libraries, schools or other educational facilities, museums, auditoriums and art galleries;
- (4) Any public health care facilities, health clinics or ambulatory care facilities, including, but not limited to, laboratories associated with the rendition of health care treatment, hospitals, rest homes, doctors' offices and dentists' offices;
- (5) Any building, facility, or automotive vehicle owned, operated or controlled by the City;
- (6) Any place of entertainment or recreation, including but not limited to, ball fields or any other area established or constructed for the primary purpose of organized recreational or sporting events, stadiums, gymnasiums, theaters, concert halls, bingo halls, arenas and swimming pools;
- (7) Any other enclosed area used by the public or serving as a place of work.

Section 5. Section 14-96 is hereby amended to read as follows:

Section 14-96. Exceptions.

Section 14-95 and the restrictions imposed therein shall not apply to:

- (1) An entire room or hall which is used for private social functions, provided that the event is under the control of the sponsor of the function and not of the proprietor or person in charge of the establishment or hall;
- (2) Private clubs or organizations to which special membership is required;
- (3) A restaurant or class 3 or 4 lounge (as those terms are defined in Section 3-131 of this Code) clearly designated by the owner or proprietor as "Smoking," as provided in Section 14-98. Any restaurant or class 3 or 4 lounge not clearly designated by the owner or proprietor as "Smoking", as provided in Section 14-98, shall be subject to the prohibition against smoking or the use of lighted tobacco products provided in Section 14-95;
- (4) A private, enclosed office if all persons present consent and if the employer's policy permits smoking in such an area; this exception shall not be construed to permit smoking in the reception areas, lobbies, hallways, and other common areas in offices or commercial facilities;
- (5) Limousines where the driver and all passengers affirmatively consent to smoking in such vehicle;
- (6) Performers upon the stage, provided that the smoking is part of a theatrical production;
- (7) A tobacco specialty retail shop;
- (8) Hotel and motel rooms rented to guests, except for those rooms designated by the hotels and motels as "no-smoking" rooms.

Section 6. Section 14-97 is hereby amended to read as follows:

Section 14-97. Restaurants and Class 3 or 4 Lounges.

- (1) It shall be the responsibility of the owner of a restaurant or Class 3 or 4 Lounge to designate his/her establishment as either SMOKING OR NON-SMOKING in accordance with Section 14-98.

- (2) For establishments designated as NON-SMOKING, no smoking by any persons (employees or patrons) at anytime will be allowed in any part of the enclosed or unenclosed areas of the establishment. In addition to the foregoing, no smoking will be allowed within twenty (20) feet of any entrance to a non-smoking establishment. Following the effective date of this ordinance an establishment designated as non-smoking shall not be allowed to convert to a smoking establishment within the same license (calendar) year.
- (3) For establishments designated as SMOKING, smoking by patrons shall be allowed throughout all areas generally occupied by patrons. No person under 19 years of age shall be admitted on the premises of an establishment designated as SMOKING as a patron or employee; and it shall be unlawful for the owner, business agent, manager or other person having control of any such establishment to admit any minor under 19 years of age to the premises as a patron or employee.
- (4) A smoking establishment may be converted to a non-smoking establishment at any time subject to the provisions of this ordinance governing non-smoking establishments.
- (5) Smoking may be permitted in hotel, motel, inn, bed and breakfast, and lodging rooms that are rented to guests designated as "smoking rooms." A facility which offers such rooms for rent to guests may add additional language to the required signage (see Section II number 3) after "NON-SMOKING" stating "lodging rooms are available for guests who smoke" in matching letters and signage.
- (6) No public place within Section 14-95, other than those places enumerated as exceptions under section 14-96, shall be designated as a smoking area in its entirety.

Section 7. Section 14-98 shall hereby be amended to read as follows:

Section 14-98. Responsibility of proprietors.

The proprietor or other person having control of any area within sections 14-95 or 14-96 shall:

- (1) Prominently post a sign clearly indicating the words "SMOKING" or "NO SMOKING", whichever may be appropriate, or the international "NO SMOKING" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle

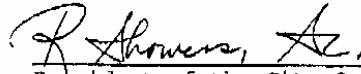
with a bar across it. The proprietor or other person having control of such building or public place shall clearly and conspicuously post such sign in every room, building or other areas where smoking is regulated by this article;

- (2) No smoking signs shall be posted conspicuously in the entrance and lobby of every restaurant, theatre, auditorium, stadium, ball field, arena, concert hall, bingo hall, gymnasium, etc., stating that smoking is prohibited therein; and in the case of motion picture theatres such information shall be shown upon the screen prior to the showing of each feature motion picture.
- (3) Request persons smoking or using tobacco products in violation of this ordinance to stop or to leave.

Section 8. Sections 14-93, 14-99, and 14-100 shall remain in full force and effect.

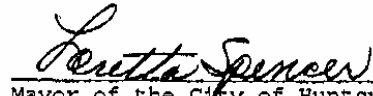
Section 9. This ordinance shall become effective thirty (30) days from and after the date of its adoption.

ADOPTED on this the 23rd day of August, 2005.



President of the City Council of
the City of Huntsville, Alabama

APPROVED on this the 23rd day of August, 2005.



Mayor of the City of Huntsville,
Alabama